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ATMAN, J.	X	
ELL, K.		
ROL, M.S.		
BRIDE, M.H.		
AGENT, D.		
THERRILL, H.F.		
AMS, J.J.		
DERSON, T.W.		
HUN, R.L.		
FFY, G.G.		
FFMAN, A.B.		
HEARTER, A.J.		
CKHART, F.R.	X	
KOW, T.E.		
INGER, S.		
SK, W.C.		
SCITTO, O.G.		
HASSBUAGER	X	X
AKKEN, K.T.		
ETHEL, I.		
CHESAUES, M.		
CKS, O.R.		
FFMAN, G.N.		
CHESKI, D.		
CORMICK, M.S.		
LLER, H.G.		
MEYER, A.M.		
WTSCH, E.		
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STATE OF COLORADO

U.S.O.O.F.

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Roy Romer
Governor

Patricia A. Nolan, MPA
Executive Director

COLORADO DEPARTMENT OF HEALTH

Dedicated to protecting and improving the health and environment of the people of Colorado

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August 2, 1993

Mr. Richard J. Schassburger

U.S. Department of Energy

Rocky Flats Plant

Building 116

P. O. Box 928

Golden, Colorado 80402-0928

RE: Solar Evaporation Ponds (OU-4) Dispute Resolution

Dear Mr. Schassburger:

The Colorado Department of Health, Hazardous Materials and Waste Management Division (the Division) and the U. S. Environmental Agency (EPA) have received your counter proposal, dated July 12, 1993 for resolution of the subject dispute.

DOE's desire to further streamline and expedite cleanup of the Solar Evaporation Ponds is commendable. Although the Division and EPA are willing to consider streamlining of the Phase II process consistent with RCRA and CERCLA requirements, DOE's proposal to further broaden the scope of this dispute and modify IAG Statement of Work (SOW) Paragraph I.B.11.b, is inappropriate.

We also find that the major technical and administrative requirements of Phase II cannot be fully "streamlined" into an expedited RCRA closure action (the IM/IRA Decision Document). The primary reasons are:

- ~~o evaluation of the impact of the ponds upon environmental media (Phase II data collection) has not been completed,~~
- o evaluation of the effectiveness of the IM/IRA cannot be accomplished before the interim remedy is implemented, and
- o the need for additional field work to support a final remedy, if necessary, cannot be evaluated.

To incorporate these requirements into the IM/IRA Decision Document, in support of a ROD/CAD, would delay the RCRA closure action intended as the focus of the IM/IRA.

DOE further suggested that IAG Statement of Work paragraph I.B.10 be modified to replace the formal Implementation Document and Title II Design. The Implementation Document, per the IAG, is to contain the draft Title II Design and the draft construction schedules while the

$$mHs$$

approved IM Title II Design is to contain the final construction schedules. The Division and EPA favor direct participation in these activities but cannot forego a formal approval process to ensure that the selected RCRA closure action is properly designed, scheduled and constructed.

Given the foregoing discussion, Item 5 of your proposed "Informal Resolution of Dispute..." document should be omitted from further consideration under this dispute.

Based on the preliminary plan for sludge removal and containerization (in tanks), as presented to Division and EPA staff on July 16th, the value of Corrective Action Management Unit (CAMU) concepts does not appear to be applicable or essential to the proposed actions. Furthermore, you are aware that CAMU provisions have not been incorporated into the Colorado Hazardous Waste Regulations.

A key to expedited pond closure is the preparation and review process for the IM/IRA Decision Document and Implementation/Title II Design Document. Consequently, DOE must establish revised IAG submittal milestones for these documents and schedule associated procurement and mobilization activities. The Division and EPA have identified a number of reviews, that through our direct participation in document preparation, may be eliminated or reduced to achieve an expedited administrative process for closure of the ponds.

Regarding DOE's Draft Dispute Resolution Schedule, the Division and EPA are prepared to accept a revised schedule, excluding time for modification of the IAG Statement of Work, to allow DOE sufficient time to develop realistic milestones for sludge removal and IM/IRA construction startup. These milestone dates must be defined and transmitted to the agencies no later than September 7th, 1993. The milestones, if approved by the agencies, will be strictly enforced and subject to stipulated penalties.

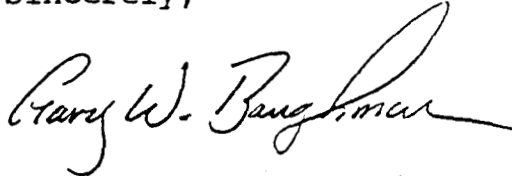
The Division has prepared a new extension document, attached, which outlines the process, and revised schedule, by which the dispute may be resolved. This resolution process is generally consistent with the efforts outlined in Items 2, 3, 4, 6 and 7 of your proposed "Informal Resolution of Dispute..." document.

This represents the Division and EPA's final attempt to establish a process for resolving the dispute at this level. If an extension document outlining the process for resolving the dispute is not signed by all parties by August 4th, it is the Division and EPA's intent to elevate the dispute to the Dispute Resolution Committee as specified in Part 12, Paragraph 93 of the IAG.

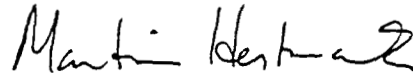
The Division and EPA shall sign a formal dispute resolution document only after all new or revised milestones are submitted and found to be acceptable. Since this cannot be finalized until after September 7th, an extension of the dispute to September 21, 1993 is appropriate.

If you have any questions, please call Harlen Ainscough of the Division at 692-3337.

Sincerely,



Gary W. Baughman, Chief
Facilities Section
Hazardous Waste Control Program
Colorado Department of Health



Martin Hestmark, Manager
Rocky Flats Project
U. S. Environmental
Protection Agency

Attachments

cc: Daniel S. Miller, AGO
Jackie Berardini, CDH-OE
Arturo Duran, EPA
Frazer Lockhart, DOE
Scott Surovchek, DOE
Wanda Busby, EG&G
Randy Ogg, EG&G

OU-4 (SOLAR PONDS) DISPUTE
DRAFT AND FINAL PHASE I RFI/RI REPORT
Extension of Dispute and Process for Resolution

Decision of the Project Coordinators

All parties agree that the dispute raised by the DOE in a letter dated June 2, 1993 has raised issues which are important to Operable Unit 4 (Solar Ponds). These issues are requiring considerable coordination between the parties to attempt informal resolution as required by Part 12, paragraph 92 of the IAG. Although progress has been made, informal resolution has not been achieved within fourteen (14) days as anticipated by the IAG.

The Project Coordinators jointly agree that the process of dispute resolution would best be served by extending the period for informal resolution until September 21, 1993. If at that time no agreement has been reached, the IAG Project Coordinators will forward a summary of their efforts along with the Written Statement of Dispute to the Dispute Resolution Committee as required by Part 12, paragraph 93 of the IAG.

The parties jointly agree that the dispute concerning milestone extensions for the Phase I RFI/RI Report (draft and final) for OU4, Solar Ponds, initiated by DOE letter dated June 2, 1993 shall be resolved by following the process as described below and as depicted on the attached Dispute Resolution Schedule:

1. To affect an improvement in the Solar Ponds Project as a whole, the resolution of this dispute should not be limited to discussions of the disputed milestones for submittal of Draft and Final Phase I RFI/RI Reports for OU4.

2. The DOE will organize and conduct an analysis (Characterization Data Options Study) to determine the best method to support the IM/IRA Decision Document (DD) with characterization information (RFI/RI data). Both the Colorado Department of Health (CDH) and Environmental Protection Agency (EPA), will actively participate in this analysis with a proposed completion date (milestone 1.2) of 7/21/93. Specific requirements of the analysis will be:

a. To determine the best method to present site characteristics, nature, extent, fate, and transport information in the IM/IRA DD.

b. To determine the nature and content of the IM/IRA DD for pond closure without a separate RFI/RI Report.

3. The DOE will organize and conduct an analysis to determine revised IAG milestones for development of the IM/IRA DD and the Implementation/Title II Design Document including a schedule for associated procurement and mobilization activities. Both the CDH and EPA will actively participate in this analysis with a proposed completion date (milestone 1.5) of 8/4/93. Specific new milestones for submittal of documents will include:

1) Submit Draft Proposed IM/IRA DD (including conceptual/Title I design).

2) Submit Proposed IM/IRA DD.

3) Submit Proposed IM/IRA Responsiveness Summary (following 60-day public comment).

4) Submit Final IM/IRA DD and Final Responsiveness Summary.

5) Submit Draft Implementation/Title II Design Document.

6) Submit Final Implementation/Title II Design Document.

The DOE further agrees to commence actual preparation of the Draft IM/IRA DD no later than 8/23/93.

4. The DOE will organize and conduct an analysis to determine the best option for removal, storage, and management of sludges to allow acceleration of the IM/IRA construction start milestone of January 28, 1997. Both CDH and EPA, will actively participate in this analysis with a proposed completion date (milestone 2.8) of 7/26/93. Specific requirements of the analysis will be:

a. To determine the best approach to removing, storing, and managing sludges to allow acceleration of the pond closure construction.

b. To determine the minimum regulatory requirements for water transfer, sludge removal, sampling/characterization, sludge transfer, extended storage, surveillance, and permitting which would allow maximum acceleration of the selected sludge management option.

c. To provide sufficient definition of the selected option to allow procurement of long lead equipment or supplies to begin.

5. Based on a comparison of the analyses described in paragraphs 3 and 4 above, the DOE, with active participation by CDH and EPA, will prepare a detailed technical scope (Design Criteria Development) of the revised approach to the Solar Ponds project. This scope will be the basis for revised budgets and schedules for the work, while identifying impacts on the life-cycle cost of the solar ponds project. This effort has a proposed completion date (milestone 3.6) of 9/7/93. Specific requirements of the effort will be:

a. To determine the new IAG milestone for "All Solar Ponds emptied of water and sludge."

b. To determine the revised IAG milestone for "Begin IM/IRA Construction." The milestone for construction completion will be identified and approved in the Implementation Document as part of the Title II Design component.

c. To determine the revised life-cycle baseline scope, schedule, and budget profile.

d. To provide the basis for a Baseline Change Proposal (BCP) submission to the Level I (DOE HQ) Baseline Change Control Board.

6. The DOE will make every effort to minimize impacts from NEPA, DOE Headquarters technical and programmatic reviews, Safety Analysis Reports, classification delays, security clearances, and other impacts. The Division and EPA understand that other potential delays from oversight agencies, beyond the control of DOE, may occur. In that event, DOE should submit information on the nature and duration of the delay for Division and EPA consideration.

7. The attached Dispute Resolution Schedule reflects the efforts described in paragraphs 2, 3, 4, 5 and 6 above. Successful completion of this schedule requires the active participation of the DOE, CDH and EPA.

8. The dispute will remain open at the informal level until September 21, 1993 when the milestones developed under paragraph 3 and paragraph 5 (a) and (b) are formally accepted or rejected by CDH after consultation with EPA. If the new milestones are rejected, the dispute will be addressed according to the original DOE and CDH correspondence.

9. In exchange for approved scope and schedule modifications, the Phase I RFI/RI Report (draft and final) will no longer be required, effectively eliminating the basis for the dispute.

10. If agreement is reached under the terms of the process outlined herein, a formal document(s) will be prepared to acknowledge and incorporate the new milestone dates into the IAG and eliminate the IAG requirement for Phase I RFI/RI Reports relative to OU-4.

11. All parties agree that the approach outlined above provides an enhanced model for accelerating the closure of the Solar Ponds and remediation of Operable Unit 4. As such it serves the ultimate goal of the IAG and stated goals of all parties.

By their signatures below, the IAG Project Coordinators agree on behalf of their respective parties, to extend the period for informal dispute resolution for the OU4 Draft and Final Phase I RFI/RI Report dispute until September 21, 1993 and to follow the process and schedule outlined herein.

Colorado Department of Health
Gary W. Baughman

Date

U. S. Environmental Protection Agency
Martin Hestmark

Date

U.S. Department of Energy
Richard J. Schassburger

Date

DISPUTE RESOLUTION SCHEDULE

				July							August							September						
WBS	Name	Duration	Resp.	6/20	6/27	7/4	7/11	7/18	7/25	8/1	8/8	8/15	8/22	8/29	9/5	9/12	9/19	9/26						
1	Characterization Data Options Schedule	34.38ed	Ogg																					
1.1	Devel strategy for RFI data utilization	5d	Team																					
1.2	Phi Report	10d	Ogg																					
1.3	First Part of IM/IRA	10d	Ogg																					
1.4	Rev with Team Members' Mgrs	10d	DOE																					
1.5	Team Concurrence	0d	Team																					
2	Options Study	30.38ed	Mallen																					
2.1	BCP	8d	Cowen																					
2.2	Modify Existing MTS Contract	8d	Beckman																					
2.3	Screen sludge Removal Options	13d	Collins																					
2.4	Study sludge Removal Options	10d	Collins, SC																					
2.5	Screen Container Options	13d	James																					
2.6	Study Container Options	10d	James, SC																					
2.7	Rev with Team Members' Mgrs	5d	DOE																					
2.8	Team Concurrence	0d	Team																					
3	Design Criteria Development	42.38ed	SC																					
3.1	Conceptual Design	20d	SC																					
3.2	Schedule	17d																						
3.3	Cost Estimate	17d	SC																					
3.4	Design Criteria Package	5d	SC																					
3.5	Rev with Team Members' Mgrs	5d	DOE																					
3.6	Team Concurrence	0d	Team																					

Summary

Milestone

Noncritical

Critical

Accel. Sludge Removal

Date: 7/27/83

Project: Accel. Sludge Removal
Date: 7/27/83